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Notice of Decision and Reasons for Decision

Applicant:	'BU9'
Agency:	Victoria Police
Decision date:	10 July 2020
Exemptions and provisions considered:	Sections 31(1)(d), 33(1), 35(1)(b) and 38 of the FOI Act in conjunction with section 4 of the <i>Judicial Proceedings Reports Act 1958</i> (Vic)
Citation:	'BU9' and <i>Victoria Police (Freedom of Information)</i> [2020] VICmr 201 (10 July 2020)

FREEDOM OF INFORMATION – police documents – police investigation documents– third party correspondence – complaint handling processes

All references to legislation in this document are to the *Freedom of Information Act 1982* (Vic) (**FOI Act**) unless otherwise stated.

Notice of Decision

I have conducted a review under section 49F of the Agency's decision to refuse access to documents requested by the Applicant under the FOI Act.

My decision on the Applicant's request differs from the Agency's decision in that I have decided to release additional information in the documents.

I am satisfied certain information in the documents is exempt under sections 31(1)(d), 33(1), 35(1)(b) and 38 of the FOI Act in conjunction with section 4 of the *Judicial Proceedings Reports Act 1958* (Vic).

I have decided it would be practicable to edit certain documents to delete exempt and irrelevant information in accordance with section 25. However, I am not satisfied it would be practicable to edit some of the documents as it would render them meaningless.

The Schedule of Documents in **Annexure 1** sets out my decision in relation to each document.

My reasons for decision follow.

Sven Bluemmel
Information Commissioner

10 July 2020

Reasons for Decision

Background to review

1. The Applicant made a request to the Agency for access to the following documents:

All documents, notes, records, statements, records of interviews and any other material relating to a notification to [town] SOCIT on or about [date] of alleged complaints of indecent contact with [description of victim] allegedly made against me and subsequently referred to [town] SOCIT and relating to any inquiries, investigations or discussions on the matter.
2. In its decision, the Agency identified 41 documents falling within the terms of the Applicant's request. It decided to grant access to 16 documents in part and refused access to 25 documents in full pursuant to the exemptions under sections 30(1), 31(1)(d), 33(1), 35(1)(b) and 38 of the FOI Act in conjunction with section 4 of the *Judicial Proceedings Reports Act 1958* (Vic) (**JPR Act**).

Review

3. The Applicant sought review by the Information Commissioner under section 49A(1) of the Agency's decision to refuse access.
4. I have examined copies of the documents subject to review and been briefed by OVIC staff who inspected the documents claimed to be exempt under section 31(1)(d).¹
5. The Applicant and the Agency were invited to make a written submission under section 49H(2) in relation to the review.
6. I have considered all communications received from the parties, including:
 - (a) the Agency's decision on the FOI request;
 - (b) information provided with the Applicant's review application on {two dates};
 - (c) correspondence received from both parties during the review;
 - (d) administrative documents concerning the Agency's processing of the request provided by the Agency during this review.
7. In undertaking my review, I have had regard to the object of the FOI Act, which is to create a general right of access to information in the possession of the Government or other public bodies, limited only by exceptions and exemptions necessary to protect essential public interests, privacy and business affairs.

Section 38

8. In its decision, the Agency claimed certain information in the documents is exempt under section 38 in conjunction with section 4 of the JPR Act.
9. Section 38 provides:

A document is an exempt document if there is in force an enactment applying specifically to information of a kind contained in the document and prohibiting persons referred to in the enactment from

¹ Section 63D provides such documents may only be inspected at an agency's premises and the Information Commissioner is not entitled to take possession of them.

disclosing information of that kind, whether the prohibition is absolute or is subject to exceptions or qualifications.

10. For a document to be exempt under section 38, three conditions must be satisfied:
 - (a) there must be an enactment in force;
 - (b) the enactment must be formulated with such precision that it specifies the actual information prohibited from disclosure in the document; and
 - (c) the enactment must prohibit persons referred to in the enactment from disclosing the specific kind of information in the document (either absolutely or subject to exceptions or qualifications).

11. Section 4 of the JPR Act provides:

4 Prohibition of reporting of names

- (1) In this section –

...

publish means disseminate or provide access to the public or a section of the public by any means – including by—

- (a) publication in a book, newspaper, magazine or other written publication; or
- (b) broadcast by radio or television; or
- (c) public exhibition; or
- (d) broadcast or electronic communication—

other than for a purpose connected with a judicial proceeding;

sexual offence means an offence under subdivision (8A), (8B), (8C), (8D), (8E), (8F) or (8FA) of Division 1 of Part I of the **Crimes Act 1958** or under any corresponding previous enactment or an attempt to commit any such offence or an assault with intent to commit any such offence.

- (1A) A person who publishes or causes to be published any matter that contains any particulars likely to lead to the identification of a person against whom a sexual offence, or an offence where the conduct constituting it consists wholly or partly of taking part, or attempting to take part, in an act of sexual penetration as defined in section 35 of the **Crimes Act 1958**, is alleged to have been committed is guilty of an offence, whether or not a proceeding in respect of the alleged offence is pending in a court.

12. I am satisfied the JPR Act is an enactment in force and section 4 of that Act is a secrecy provision to which section 38 applies.
13. Section 4 of the JPR Act refers to information that ‘contains any particulars likely to lead to the identification of a person against whom a sexual offence ... is alleged to have been committed’. In my view, the application of this provision is intended to be interpreted broadly to protect the identity of alleged victims of sexual offences.
14. In this matter, the documents concern allegations of sexual assault. Accordingly, the documents identify the alleged victim of a sexual offences and contain detailed information regarding certain allegations.
15. As such, I am satisfied some of the documents contain information that is subject to the secrecy provision in section 4 of the JPR Act and, therefore, are exempt under section 38 of the FOI Act.

16. The Schedule of Documents in **Annexure 1** sets out my decision in relation to each of the documents claimed exempt under section 38 by the Agency.

Section 31(1)(d)

17. The Agency exempted information in Document 1 and 2 pursuant to section 31(1)(d).
18. Section 31(1)(d) provides a document is exempt if its disclosure under the FOI Act would, or would be reasonably likely to 'disclose methods or procedures for preventing, detecting, investigating, or dealing with matters arising out of, breaches or evasions of the law the disclosure of which would, or would be reasonably likely to, prejudice the effectiveness of those methods or procedures'.
19. Section 31(1)(d) does not apply to widespread and well-known methods or procedures.²
20. The phrase 'reasonably likely' means there is a real chance of an event occurring and it is not fanciful or remote.³
21. 'Prejudice' means to hinder, impair or undermine, and includes actual prejudice as well as impending prejudice.⁴
22. In its decision letter, the Agency states the deleted information comprises details of the methods and procedures used by police during the course of the investigation into the matter concerning the Applicant, which would be reasonably likely to prejudice the effective use of those methods and procedures in the future.
23. The information exempted by the Agency in the documents is the name of a police investigation. While the use of investigation names is known to the public, in the circumstances, I am not satisfied this investigation name is well-known.
24. Accordingly, I am satisfied the information is exempt under section 31(1)(d).

Section 33(1)

25. The Agency also relied on section 33(1) to refuse access to certain documents in part and in full.
26. A document is exempt under section 33(1) if two conditions are satisfied:
- (a) disclosure of the document under the FOI Act would 'involve' the disclosure of information relating to the 'personal affairs' of a person other than the Applicant;⁵ and
 - (b) such disclosure would be 'unreasonable'.

Do the documents contain personal affairs information?

27. Information relating to an individual's 'personal affairs' includes information that identifies any person or discloses their address or location. It also includes any information from which such information may be reasonably determined.⁶
28. A document will disclose a third party's personal affairs information if it is capable, either directly or indirectly, of identifying that person. As the nature of disclosure under the FOI Act is unrestricted and

² *XYZ v Victoria Police* [2010] VCAT 255 at [177].

³ *Bergman v Department of Justice Freedom of Information Officer* [2012] VCAT 363 at [65] quoting *Binnie v Department of Agriculture and Rural Affairs* [1989] VR 836.

⁴ *Ibid*, *Bergman* at [66], referring to *Sobh v Police Force of Victoria* [1994] VicRp 2; [1994] 1 VR 41 (Nathan J) at [55].

⁵ Sections 33(1) and (2).

⁶ Section 33(9).

unconditional, this is to be interpreted by reference to the capacity of any member of the public to identify a third party.⁷

29. I am satisfied the documents contain personal affairs information of persons other than the Applicant, including their names, email addresses, position titles, telephone numbers, business addresses of third parties, relationship descriptors and other information, including their personal opinions, capable of identifying individuals and concerning the personal circumstances of those parties.
30. Accordingly, I am satisfied information of this nature is 'personal affairs information' for the purposes of section 33(1).

Would release of the personal affairs information be unreasonable?

31. The concept of 'unreasonable disclosure' involves determining whether the public interest in the disclosure of official information is outweighed by the personal interest in privacy.
32. In *Victoria Police v Marke*,⁸ the Victorian Court of Appeal held there is 'no absolute bar to providing access to documents which relate to the personal affairs of others'. Further, the exemption under section 33(1) 'arises only in cases of unreasonable disclosure' and '[w]hat amounts to an unreasonable disclosure of someone's personal affairs will necessarily vary from case to case'.
33. Even where an applicant claims to know the identity of a third party, disclosure of their personal affairs information may still be unreasonable in the circumstances.⁹
34. In determining whether disclosure of the personal affairs information in the documents would be unreasonable, I have considered the following factors:
 - (a) The documents were obtained and created by the Agency in relation to a police investigation concerning allegations against the Applicant. I accept information provided to a police criminal investigation in these circumstances is generally given with the expectation it will only be used for the purposes of investigating an alleged crime and any subsequent prosecution or court proceeding.
 - (b) There is no information before me concerning the views of the third parties as to the release of their personal affairs information as the Agency determined consultation was not practicable. However, having regard to the fact the documents were obtained and created as part of a police investigation, I am of the view the individuals concerned would be reasonably likely to object to the release of their personal affairs information in the documents under the FOI Act.
 - (c) The information obtained by the Agency has not been aired in open court and is not in the public domain.
 - (d) The nature of disclosure under the FOI Act is unconditional and unrestricted, which means an applicant is free to disseminate widely or use a document disclosed to them under the FOI Act as they choose.¹⁰ There is no information before me to indicate the Applicant would disseminate the documents. However, given the nature of the document and the purpose in

⁷ *O'Sullivan v Department of Health and Community Services (No 2)* [1995] 9 VAR 1 at [14]; *Beauchamp v Department of Education* [2006] VCAT 1653 at [42].

⁸ [2008] VSCA 218 at [76].

⁹ *AB v Department of Education and Early Childhood Development* [2011] VCAT 1263 at [58]; *Akers v Victoria Police* [2003] VCAT 397.

¹⁰ *Victoria Police v Marke* [2008] VSCA 218 at [68].

which it was obtained by the Agency, on balance, I am not satisfied this factor weighs in favour of unconditional disclosure under the FOI Act

- (e) While I acknowledge the Applicant has a genuine interest in obtaining access to the documents subject to review, their interest in obtaining the information is a matter of private interest. I have determined the need to protect sensitive information provided by third parties to the Agency outweighs the Applicant's personal interest in obtaining this information.
- (f) I do not consider any public interest would be promoted by disclosure of the third parties' personal affairs information in the documents. I am of the view the public interest lies in the Agency preserving its ability to conduct investigations and obtain the cooperation of an alleged offender, witness or other person during an investigation.
- (g) I consider members of the public provide information to the Agency for the purpose of conducting investigations with the expectation it will remain confidential. If such information were to be routinely released under the FOI Act, I am satisfied this would jeopardise the ability of the Agency to investigate crimes and maintain public safety in accordance with its law enforcement functions.
- (h) I also consider it would be unreasonable to disclose personal affairs information of third parties where it relates to their personal circumstances [redacted]. While the documents are connected to complaints against the Applicant and the Agency's subsequent investigation, documents of this nature are personal in nature to those third parties.
- (i) It would be unreasonable to disclose personal affairs information of Agency officers where their involvement in they only have peripheral involvement in the investigation.

- 35. Section 33(2A) requires me to consider whether the disclosure of information would, or would be reasonably likely to endanger the life or physical safety of any person¹¹ There is no information before me to suggest this is a relevant factor in this case.
- 36. On balance, I am satisfied it would be unreasonable to release most of the personal affairs information of third parties in documents. However, I am not satisfied it would be unreasonable to release personal affairs information of third parties in emails the Applicant was copied into or that were originally sent by the Applicant.
- 37. Accordingly, I am satisfied certain information in the documents is exempt under section 33(1).
- 38. The Schedule of Documents in **Annexure 1** sets out my decision in relation to section 33(1) in relation to each document.

Section 35(1)(b)

- 39. The Agency denied access to certain information in the Documents 18, 24 and 26 under section 35(1)(b).
- 40. A document is exempt under section 35(1)(b) if two conditions are satisfied:
 - (a) disclosure would divulge information or matter communicated in confidence by or on behalf of a person or a government to an agency or a Minister; and
 - (b) disclosure would be contrary to the public interest as it would be reasonably likely to impair the ability of an agency or a Minister to obtain similar information in the future.

¹¹ Section 33(2A).

Was the information obtained in confidence?

41. Whether information communicated by an individual was communicated in confidence is a question of fact.¹²
42. When determining whether information was communicated in confidence, it is necessary to consider the position from the perspective of the communicator.¹³
43. I note the Agency did not consult with the third parties to obtain their views on disclosure of the information on the basis it was impracticable to do so.¹⁴
44. The documents exempted by the Agency section 35(1)(b) include:
 - (a) a statement of a third party relating to their position in the organisation (Document 18)
 - (b) an email and attachments sent to the agency by a third party concerning allegations made by another third party (Document 24)
 - (c) a witness statement (Document 26)
45. There is nothing on the face of the documents to indicate the information was provided by the third party in confidence. However, a document need not to be marked as 'confidential' for its contents to be considered as communicated in confidence.¹⁵
46. In regards to Documents 24 and 26, I am satisfied the third parties provided information to the Agency with the expectation it would be used for the purpose of the Agency's investigation only. I consider it is reasonably likely the third party would not expect the information to be released under the FOI Act, which provides for unconditional and unrestricted use of a document once disclosed.
47. Accordingly, I am satisfied information in the Documents 24 and 26 were communicated by a third party with an expectation of confidentiality.
48. As I am satisfied Document 18 is exempt in full under section 33(1), I have not considered the application of section 35(1)(b) to this document.

Would disclosure of the information be contrary to the public interest?

49. The exemption also requires I consider whether the Agency would be impaired from obtaining similar information in the future if the information is disclosed under the FOI Act. This involves considering whether others in the position of the communicator would be reasonably likely to be inhibited or deterred from providing similar information to the Agency in the future should the information be disclosed.
50. The public interest test in section 35(1)(b) is narrow. It is directed towards the impact release would have on an agency's ability to obtain the same type of information in the future. The provision does not permit me to have regard to other matters, such as any public interest in favour of release, or the extent to which the Applicant's personal interest in the documents would be served by granting them access to them.
51. I accept the Agency relies on information provided to it by members of the public in order to effectively perform its investigative functions. I consider if the Agency were to routinely release

¹² *Ryder v Booth* [1985] VR 869 at 883; *XYZ v Victoria Police* [2010] VCAT 255 at [264].

¹³ *Ibid.*

¹⁴ Section 35(1A).

¹⁵ *Williams v Victoria Police* [2007] VCAT 1194 at [75].

information of the kind in Documents 24 and 26 in response to an FOI request, the readiness of the public to provide information of this nature to the Agency would be impacted, thereby impairing the Agency's ability to obtain information of a similar nature in the future.

52. This is consistent with evidence heard by the Victorian Civil and Administrative Tribunal (**VCAT**), in *Williams v Victoria Police*¹⁶ and more recently in *RFJ v Victoria Police FOI Division*,¹⁷ in which VCAT accepted evidence that persons would be less likely to make statements to Victoria Police if they were of the view the making of such statements was not confidential.
53. Having reviewed the content and context in which the information was provided to the Agency, I am satisfied the public interest lies in the Agency preserving the confidentiality of information provided by third parties during a police investigation. Further, it would be contrary to the public interest if third parties were not able to communicate openly and transparently with the Agency out of concern information they provided would be disclosed under the FOI Act.
54. Accordingly, I am satisfied Documents 22 and 26 are exempt under section 35(1)(b) as release would be likely to impair the Agency's ability to obtain similar information in the future.

Section 30(1)

55. In light of my decision regarding sections 33(1) and 38, I am not required to consider the application of section 30(1) to the documents.

Other matters

56. During this review, the Agency provided OVIC with the documents in a different order to what was processed by the Agency in its decision.
57. Documents have been provided to OVIC in 4 separate files, as follows:
 - (a) documents released in part;
 - (b) documents refused in full;
 - (c) combined duplicate documents; and
 - (d) two documents that were not assessed by the Agency on grounds the Applicant already has possession of the document and is publicly available. This is outlined in the Agency's decision letter.
58. The purpose of providing OVIC with re-arranged documents was to avoid confusion where email chains were initially separated into individual documents.
59. In providing a new version of redacted documents to OVIC, the Agency did not alter its application of exemptions to the individual pages of the documents. Accordingly, the Schedule of Documents in **Annexure 1** does not correspond with the dates and order of documents in the Agency's decision.
60. The Duplicate documents are not included in the Schedule of Documents in Annexure 1.

¹⁶ [2007] VCAT 1194 at [73].

¹⁷ [2013] VCAT 1267 at [170].

Deletion of exempt or irrelevant information

61. Section 25 requires an agency to grant access to an edited copy of a document when it is practicable for the agency or Minister to delete exempt or irrelevant information and the applicant agrees to receiving such a copy.
62. Determining what is 'practicable' requires consideration of the effort and editing involved in making the deletions 'from a resources point of view'¹⁸ and the effectiveness of the deletions. Where deletions would render the document meaningless they are not 'practicable' and release of the document is not required under section 25.¹⁹
63. I have considered the information the Agency deleted from the documents as irrelevant, being a user identification number. I agree it falls outside the scope of the Applicant's request.
64. I have considered the effect of deleting irrelevant and exempt information from the documents. In my view, it is practicable for the Agency to delete certain information in some of the documents, because it would not require substantial time and effort, and the edited documents would retain meaning. However, in some instances, I am not satisfied it would be practicable to edit the documents because the deletion of exempt information would render the documents meaningless.

Conclusion

65. I am satisfied certain information in the documents is exempt under sections 31(1)(d), 33(1), 35(1)(b) and 38 of the FOI Act in conjunction with section 4 of the *Judicial Proceedings Reports Act 1958* (Vic).
66. As it is practicable to edit some of the documents to delete irrelevant and exempt information, I have determined to grant access to those documents in part. Where I am not satisfied it is practicable to edit the documents, I have determined to refuse access to those documents in full.
67. The Schedule of Documents in **Annexure 1** outlines my decision in relation to each of the documents.

Review rights

68. If either party to this review is not satisfied with my decision, they are entitled to apply to VCAT for it to be reviewed.²⁰
69. The Applicant may apply to VCAT for a review up to 60 days from the date they are given this Notice of Decision.²¹
70. The Agency may apply to VCAT for a review up to 14 days from the date it is given this Notice of Decision.²²
71. Information about how to apply to VCAT is available online at www.vcat.vic.gov.au. Alternatively, VCAT may be contacted by email at admin@vcat.vic.gov.au or by telephone on 1300 018 228.
72. The Agency is required to notify the Information Commissioner in writing as soon as practicable if either party applies to VCAT for a review of my decision.²³

¹⁸ *Mickelborough v Victoria Police (General)* [2009] VCAT 2786 [31]; *The Herald and Weekly Times Pty Limited v The Office of the Premier (General)* [2012] VCAT 967 at [82].

¹⁹ *Honeywood v Department of Human Services* [2006] VCAT 2048 [26]; *RFJ v Victoria Police FOI Division (Review and Regulation)* [2013] VCAT 1267 at [140], [155].

²⁰ The Applicant in section 50(1)(b) and the Agency in section 50(3D).

²¹ Section 52(5).

²² Section 52(9).

²³ Sections 50(3F) and (3FA).

Notification of third party review rights

73. Section 49P(5) provides if I make a decision to disclose a document claimed to be exempt under section 33(1), if practicable, I must notify any person who has a right to make an application for review of the decision under section 50(3) of the existence of that right.
74. I have decided to release documents that contain information relating to the personal affairs of third parties.
75. In the circumstances, I consider it practicable to notify most of the third parties whose personal affairs information was claimed exempt under section 33(1) by the Agency.
76. However, in regards to certain parties, I consider their personal affairs information is not particularly sensitive considering the context of the documents, as their personal affairs information is peripheral to the main issues. On balance, it would be an unnecessary intrusion into the life of that individual to notify them of their right to review.
77. Therefore, where practicable to do so, the relevant persons will be notified of my decision of their right to apply to VCAT for a review within 60 days from the date they are given notice of my decision.

When this decision takes effect

78. My decision does not take effect until the relevant review period of 60 days expires.
79. If a review application is made to VCAT, my decision will be subject to any VCAT determination.

Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
Documents released by the Agency in part						
1.	[date]	LEAP Incident Report	3	<p>Released in part</p> <p>Sections 31(1)(d), 33(1), 38, 25</p>	<p>Release in part</p> <p>Sections 31(1)(d), 33(1), 38, 25</p> <p>The information deleted by the Agency is to remain deleted in accordance with section 25, as it is exempt under sections 31(1)(d), 33(1) and 38.</p>	<p>Section 31(1)(d): I am satisfied the information deleted by the Agency under section 31(1)(d) is exempt as outlined above in the Notice of Decision.</p> <p>Section 33(1): The personal affairs information in the document concerns the alleged victim and witnesses.</p> <p>While the document contains personal affairs information of the Applicant, it is so intertwined with the personal affairs information of third parties that it cannot be separated.</p> <p>I am satisfied the information deleted by the Agency under section 33(1) is exempt for reasons outlined above in the Notice of Decision.</p> <p>Section 38: I am satisfied the document is exempt under section 38 in conjunction with section 4 of the JPR Act, for reasons outlined above in the Notice of Decision.</p> <p>Section 25: I am satisfied information deleted by the Agency under section 25, being a User identification number of an Agency officers, is irrelevant to the Applicant's request.</p>

Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
						I am satisfied it is practicable to delete irrelevant and exempt information in accordance with section 25.
2.	Undated	Interpose Report	6	<p>Released in part</p> <p>Sections 31(1)(d), 33(1), 38</p>	<p>Release in part</p> <p>Sections 31(1)(d), 33(1), 38, 25</p> <p>The information deleted by the Agency in its decision is to remain deleted in accordance with section 25, as it is exempt under sections 31(1)(d), 33(1) and 38.</p>	<p>Section 31(1)(d): See comments for Document 1.</p> <p>Section 33(1): I note the Agency deleted the name and identification number of an unsworn Agency officer. In the circumstances of this matter, I consider their personal affairs information is peripheral to the investigation and it is therefore unreasonable to release their personal affairs information in the document.</p> <p>I am satisfied it is unreasonable to release the personal affairs information in the document for reasons outlined above in the Notice of Decision.</p> <p>Section 38: See comments for Document 1.</p> <p>Section 25: I am satisfied it is practicable to delete exempt information in accordance with section 25.</p>

Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	Number of Pages	Agency’s Decision	OVIC Decision	OVIC Comments
9.	[date and time] ²⁴	Email chain	2	Released in part Section 33(1)	Release in part Sections 33(1), 25 This document is to be released, except for the name and email address in the ‘From’ and ‘To’ details at the top of the email dated [date and time].	Section 33(1): I am not satisfied it would be unreasonable to disclose the personal affairs information in emails the Applicant was copied into. I am satisfied it would be unreasonable to disclose the personal affairs information of the third party in the email dated [date] for reasons outlined above in the Notice of Decision. The email dated [date and time] which is crossed out at the bottom of the document was not assessed by the Agency on the basis that it had already been provided to the Applicant. However, noting the Agency deleted personal affairs information from this document, I do not consider it would be unreasonable to disclose the information as it is already in the Applicant’s possession. Section 25: See comments for Document 2.
10.	[date and time] ²⁵	Email chain	3	Released in part Section 33(1)	Release in part Sections 33(1), 25 This document is to be	Section 33(1): See comments for Document 9. I also consider it would be unreasonable to disclose the name of the third party in the first line of page 3 for reasons outlined above in

²⁴ For consistency with the Agency’s Transfer of Documents form provided to OVIC, the above Schedule of Documents in Annexure 1 corresponds with the dates listed by the Agency. However, for transparency, this document includes a crossed out section at the top of the email chain, which includes details of the email chain being forwarded on [date] that was deleted under section 33(1).

²⁵ See comment in n.24 above.

Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
					<p>released, except for the following information which is exempt under section 33(1) and is to be deleted:</p> <p>(a) the name and email address in the 'From' and 'To' details at the top of the email dated [date and time]; and</p> <p>(b) the name of the third party in the first line of page 3.</p>	<p>paragraph 35 of the Notice of Decision.</p> <p>Section 25: See comments for Document 2.</p>
11.	[date and time] ²⁶	Email and an attached letter	2	<p>Released in part</p> <p>Section 33(1)</p>	<p>Release in part</p> <p>Sections 33(1), 25</p> <p>This document is to be released, except for the following information, which is exempt under section 33(1) and is to be deleted in accordance with section 25:</p> <p>(a) the name and email address in the 'From' and 'To' details in the email dated [date and</p>	<p>Section 33(1): See comments for Document 9.</p> <p>I am also not satisfied it would be unreasonable to release the attached letter in full as the Applicant was copied into the email and would have a copy of the document in their possession.</p> <p>Section 25: See comments for Document 2.</p>

²⁶ See comment in n.24 above.

Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
					time] at the top of the document.	
12.	[date and time] ²⁷	Email chain	2	Released in part Section 33(1)	Release in part Sections 33(1), 25 This document is to be released, except for the name and email address in the 'From' and 'To' details at the top of the email dated [date and time].	Section 33(1): The attached document is the same attachment as in Document 11. See comments for Document 9. Section 25: See comments for Document 2.
13.	[date and time]	Email chain	12	Released in part Section 33(1)	Release in part Sections 33(1), 25 The information deleted by the Agency in its decision is exempt under section 33(1) and is to remain deleted in accordance with section 25, except for the following information, which is not exempt under section 33(1): (a) the entirety of the email [date and time]	Section 33(1): I do not consider it would be unreasonable to release most of the personal affairs information in email correspondence for which the Applicant was copied into or which was originally sent by the Applicant. While the remainder of the document contains personal affairs information of the Applicant, I consider the information is intertwined with the personal affairs information of third parties. I am satisfied it is unreasonable to release the personal affairs information in the document for reasons outlined above in the Notice of Decision.

²⁷ See comment in n.24 above.

Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
					<p>as the Applicant was carbon copied on it originally; and</p> <p>(b) the name and email address of the recipient of the email dated [date and time].</p>	<p>Accordingly, I am satisfied part of the document are exempt under section 33(1).</p> <p>Section 25: See comments for Document 2.</p>
14.	[date and time] ²⁸	Email	2	<p>Released in part</p> <p>Section 33(1)</p>	<p>Release in part</p> <p>Sections 33(1), 25</p> <p>This document is to be released, except for the name and email address in the 'From' and 'To' details at the top of the email dated [date and time].</p>	<p>Section 33(1): See comments for Document 9.</p> <p>Section 25: See comments for Document 2.</p>
21.	[date and time]	Email chain	2	<p>Released in part</p> <p>Sections 30(1), 33(1), 38</p>	<p>Release in part</p> <p>Sections 33(1), 25</p> <p>The information deleted by the Agency in its decision is to remain deleted in accordance</p>	<p>Section 33(1): See comments for Document 1.</p> <p>Section 38: See comments for Document 1.</p> <p>Section 30(1): As I am satisfied the information deleted by the Agency is exempt under section 33(1) and 38, I am not required to consider the</p>

²⁸ See comment in n.24 above.

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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
					with section 25, as it is exempt under sections 33(1) and 38.	application of section 30(1) to the document. Section 25: See comments for Document 2.
24.	[date and time]	Email and attachments	10	Released in part Sections 33(1), 35(1)(b), 38	Release in part Sections 33(1), 35(1)(b), 38 This document is to be released, except for the following information which is exempt and is to be deleted in accordance with section 25: (a) the email [date and time] which is exempt under sections 33(1), 35(1)(b) and 38; (b) the letter dated [date], which is exempt under sections 33(1) and 35(1)(b); (c) the cover message dated [date] which is exempt under section 33(1); (d) the letter and	35(1)(b): I am satisfied the email, including its attachments, contain information communicated to the Agency in confidence from [description of third party], concerning allegations of a sexual assault, and disclosure of the document under the FOI Act would inhibit the Agency from obtaining similar information in the future. The Agency has not claimed the colour photographs attached to the email as exempt under section 35(1)(b). Accordingly, I have considered the application of section 33(1) to those documents. Section 33(1): I am satisfied it would be unreasonable to release photographs of individuals other than the Applicant given the context in which the photographs were obtained by the Agency. Accordingly, the photographs are exempt under section 33(1). Section 38: The Agency relied on section 38 in relation to the email dated [date] and an attached letter and covering letter from a complainant. I am satisfied certain information

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					<p>attachment (page 6 of Document 24) dated [date], which is exempt under sections 33(1), 35(1)(b) and 38; and</p> <p>(e) images of third parties in the colour photographs, which are exempt under section 33(1).</p>	<p>is exempt under section 38 as it is capable of identifying an alleged victim of a sexual offence. My reasons are outlined above in the Notice of Decision.</p> <p>Section 25: I am satisfied it would be practicable to edit the photographs to delete exempt information in accordance with section 25.</p> <p>I am not satisfied it would be practicable to delete the remainder of the exempt information as it would render the documents meaningless.</p>
Documents refused by the Agency in full						
3.	[date]	Message screen shot	1	<p>Refused in full</p> <p>Section 33(1)</p>	<p>Refused in full</p> <p>Section 33(1)</p>	<p>Section 33(1): This is a screen shot of messages sent between two third parties concerning a complaint lodged. I am satisfied it would be unreasonable to disclose the names and photograph of third parties in the context of this screenshot, as it is personal affairs information but it will not provide the Applicant with further understanding of the document. Accordingly, this information is exempt under section 33(1).</p> <p>Section 25: I am not satisfied it would be</p>

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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
						practicable to edit the document to delete exempt information as it would render the document meaningless.
4.	[date and time]	Email chain	3	Refused in full Section 33(1)	Refused in full Section 33(1)	Section 33(1): While the document contains personal affairs information of the Applicant, I consider the information is intertwined with the personal affairs information of third parties. I am satisfied it is unreasonable to release the personal affairs information in the document for reasons outlined above in the Notice of Decision. Section 25: See comments for Document 3.
5.	[date and time]	Email chain	4	Refused in full Section 33(1)	Refused in full Section 33(1)	Section 33(1): See comments for Document 4. Section 25: See comments for Document 3.
6.	[date and time]	Email chain	3	Refused in full Section 33(1)	Refused in full Section 33(1)	Section 33(1): See comments for Document 4. Section 25: See comments for Document 3.
7.	[date and time]	Email chain	4	Refused in full	Release in part	Section 33(1): I do not consider it would be unreasonable to release most of the personal affairs information in email correspondence

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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
				Section 33(1)	<p>Sections 33(1), 25</p> <p>I am not satisfied the email dated [date] at [time] is exempt in full under section 33(1). The information deleted by the Agency in the third paragraph is exempt under section 33(1) and is to remain deleted in accordance with section 25.</p> <p>The remainder of the information deleted by the Agency in this document is exempt under section 33(1) and is to remain deleted in accordance with section 25.</p>	<p>sent by the Applicant. I am satisfied it would be unreasonable to disclose the personal affairs information of the third parties in the body of the email for reasons outlined above in the Notice of Decision.</p> <p>Section 25: See comments for Document 2.</p>
8.	[date and time] ²⁹	Email	1		Not subject to review	The Agency advised this document was not assessed as it is already in the possession of the Applicant.
15.	[date and time]	Email	1	Refused in full Section 33(1)	Refused in full Section 33(1)	Section 33(1): This is an email from a third party containing their opinion in relation to Applicant's alleged conduct.

²⁹ See comment in n.24 above.

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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
						See comments for Document 1. Section 25: See comments for Document 3.
16.	[date]	Letter to third party	2	Refused in full Section 33(1)	Refused in full Section 33(1)	Section 33(1): This is a letter addressed to a third party concerning their position in the [description]. While it contains personal affairs information of the Applicant, it is so intertwined with the personal affairs information of the third party that it cannot be separated. I am satisfied it would be unreasonable to disclose this letter as it relates to the third party's personal circumstances. Section 25: See comments for Document 3.
17.	[date]	Letter to third party	1	Refused in full Section 33(1)	Refused in full Section 33(1)	Section 33(1): See comments for Document 16. Section 25: See comments for Document 3.
18.	[date]	Opening Statement	5	Refused in full Sections 33(1), 35(1)(b)	Refused in full Section 33(1)	Section 33(1): While the statement concerns a third party's personal circumstances, it also contains their views of the complaint handling process by the organisation in response to allegations made in relation to the Applicant. The document contains personal affairs information of the Applicant, including discussion of the complaints lodged against them and the handling of the complaints.

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						<p>However, given the circumstances in which the document was created, I am satisfied the information is so intertwined with the personal affairs information of the third party that it cannot be separated.</p> <p>Accordingly, I am satisfied it would be unreasonable to release information concerning the personal circumstances of the third party. Therefore, the document is exempt under section 33(1).</p> <p>Section 35(1)(b): As I am satisfied the document is exempt under section 33(1), I am not required to consider the application of section 35(1)(b) to the document.</p> <p>Section 25: See comments for Document 3.</p>
19.	[date and time]	Email	2	<p>Refused in full</p> <p>Section 33(1)</p>	<p>Refused in full</p> <p>Section 33(1)</p>	<p>Section 33(1): This is an email sent to a third party concerning their personal involvement with the [description]. I am satisfied it would be unreasonable to disclose this letter as it relates to the third party's personal circumstances.</p> <p>Section 25: See comments for Document 3.</p>
20.	[date]	Letter	2	<p>Refused in full</p> <p>Section 33(1)</p>	<p>Refused in full</p> <p>Section 33(1)</p>	<p>Section 33(1): See comments for Document 16.</p> <p>Section 25: See comments for Document 3.</p>

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22.	[date and time]	Email	2	Refused in full Section 33(1)	Refused in full Section 33(1)	Section 33(1): This is an email from a third party to the Informant concerning their recollection of the alleged incident, the complaint and their involvement in the matter. See comments for Document 1. Section 25: See comments for Document 3.
23.	[date and time]	Email and attached letter dated [date]	3	Refused in full Sections 33(1), 38	Refused in full Sections 33(1)	Section 33(1): This is an email concerning a draft letter to a complainant and a copy of the draft letter. I am satisfied it would be unreasonable to disclose the identity of the complainant and the letter responding to their complaint for reasons outlined above in the Notice of Decision. Section 25: See comments for Document 3.
25.	[date and time]	Email and attachment	3	Refused in full Section 33(1)	Refused in full Section 33(1)	Section 33(1): This is an email from a third party to the Informant. Attached to the email is a timeline of events. Having considered the circumstances in which the documents were created and provided to the Agency, I consider it would be unreasonable to disclose the personal affairs information in this document.

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						Section 25: See comments for Document 3.
26.	[date]	Witness Statement	2	Refused in full Section 35(1)(b)	Refused in full Section 35(1)(b)	Section 35(1)(b): I am satisfied the witness statement was provided to the Agency in confidence for the purpose of its investigation into allegations against the Applicant. I am satisfied disclosure of the statement would be contrary to the public interest for reasons outlined above in the Notice of Decision. Section 25: See comments for Document 3.